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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/370,619	08/07/1999	MICHAEL DAVID ERLANGER	3	8285

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EXAMINER

AKERS, GEOFFREY R

ART UNIT	PAPER NUMBER
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2164

DATE MAILED: 03/22/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/370619

Applicant(s)

Ensign

Examiner

Alas, 9

Group Art Unit

2164

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 1/23/02
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-157 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-157 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

Response to Amendment

1. This communication is in response to applicant's Amendment A(Paper #11) filed 1/23/02.
2. Applicant amended claims 14-16 and 20-22 and 31,35,37. Applicant further added new claims 39-157. No claims were deleted.
3. Claims 1-157 are pending.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 7-8,12,17-18, 23, 30-31 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser(U.S. Pat. 5,995,947).

Fraser et al disclose a method, including receiving lending criteria from plural lenders (e.g., Figure 1; column 11, line 25 et seq; column 12, line 15 et seq), compiling and outputting first statistic sets on lending criteria (e.g., S224) (e.g., Figure 2; column 2, line 32 et seq; column 10, line 35 et seq; column 11, line 60 et seq) for a lender fee (e.g., column 14, line 50 et seq), and comparing loan solicitation and lender criteria (e.g., column 11, line 25 et seq).Fraser et al disclose a method, including receiving lending criteria from plural lenders (e.g., Figure 1; column 11, line 25 et seq; column 12, line 15 et seq), compiling and outputting first statistic sets on

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lending criteria (e.g., S224) (e.g., Figure 2; column 2, line 32 et seq; column 10. line 35 et seq; column 11, line 60 et seq) for a lender fee (e.g., column 14, line 50 et seq). receiving loan sale offers (e.g., from brokers 120 at S221) (e.g., column 2, line 21 et seq), receiving offers to buy a loan (e.g., column 1, line 15 et seq; column 2, line 25 et seq), receiving a loan solicitation (e.g., at 5221) (e.g., column 9, line 36 et seq), comparing loan solicitation and lender criteria (e.g., column 11, line 25 et seq). Fraser et al are deemed to disclose an offer to sell and buy a loan, as broadly recited (e.g., via loan broker and lender, respectively). To the extent that Fraser et al could be interpreted otherwise, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the method of Fraser et al to facilitate loan trading as a means of vertically integrating the method and market to include secondary mortgage market participants (e.g., column 1, line 16 et seq). Fraser et al also disclose price decrease as fee measure increases (e.g., loan amount) (e.g., column 14, line 53 et seq), receiving loan solicitations (e.g., at S221) (e.g., column 9, line 36 et seq), compiling second statistic set (e.g., column 2, line 37 et seq; column 12, line 15 et seq), loan offers and bids (e.g., column 2, line 20 et seq), outputting indicium of loan seeker identify to lender (e.g., column 13, line 50 et seq), receiving an offer to buy a loan (e.g., a bid) (e.g., column 13, line 4 et seq), earning a fee (e.g., column 14, line 49 et seq). Fraser et al are deemed to disclose an offer to sell and buy a loan, as broadly recited (e.g., via loan broker and lender, respectively). To the extent that Fraser et al could be interpreted otherwise, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the method of

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Fraser et al to facilitate loan trading as a means of vertically integrating the method and market to include secondary mortgage market participants (e.g., column 1, line 16 et seq).

6. Claims 3-6, 13-16, 19-22, 32, 33, and 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser(U.S. Pat: 5,995,947) in view of Gottesman (U.S. Pat: 6,049,782).

Fraser et al disclose a method, including receiving lender criteria (e.g., Figure 1; column 11, line 25 et seq; column 12, line 15 et seq), receiving an offer to sell (e.g., from brokers 120 at S221) (e.g., column 2, line 21 et seq), lending and trading (e.g., column 1, line 16 et seq), and variable fee structure (e.g., column 14, line 49 et seq). Fraser et al do not disclose specific reduced fee structure based on coordinated lending and trading by a party. To the extent that such a fee structure would not have been obvious to one of ordinary skill in the art at the time of the invention (e.g., to encourage and reward multiple transactions by users, to facilitate transaction pricing of users), Gottesman et al, U.S. patent 6,049,782 disclose a method including outputting an indicium that a first portion of a fee is credited against a second measure of fees based on a user's maintenance of multiple business/transactional relationships with a financial institution(checking account, savings account, CD's, mortgages)(col 2 line 7 et seq). Volume discount of service fees provide and improved means to encourage and reward customer/user loyalty(Gottesman(col 3 line 20 et seq).

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Election/Restriction

7. Newly submitted claims 39-157 are directed to an invention that is independent or distinct from the invention as originally claimed. The reasons for such are as follows. Underwriting standards for loans in combination with specific interest rate selection, fees, contractual term combinations and the updating of a outside database describing closed loans and lines of credit, in conjunction with the elaboration and description of a secondary market as well as the provision of intermediation services employed in the secondary market and realtime access to the database under a prearranged pricing schedule which provides reductions in price of information as fees increase for intermediation services for transactions in the first sector are directed toward a separately distinct invention than as was originally set forth in independent claims 1,11,17,23,29,31,35,37.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, new claims 39-157 are hereby withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Response to Arguments

8. Applicant's arguments filed 1/23/02 have been fully considered but they are not persuasive. Fraser teaches a variable fee and a variable price(col 14 lines 49-57) which can be, but not necessarily is, the qualifications and creditworthiness of the borrower. Applicant's claim 1 is vague with respect to the implication of the phrase "based on a first measure of fees incurred with

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respect to the lender". Fraser reference as disclosed provides adequate rejection of applicant's independent claims as filed.

Buying and selling of loans in the secondary market as buying and selling notes and mortgages and bonds oftentimes utilizes an entity as a third party intermediary. This party is properly a broker. The term "loan broker" may be one who acts as an intermediary in bringing together two parties, borrower and lender, noteholder and buyer, etc in either the primary or secondary markets mortgage and loan markets. The term is not restrictive and is used in these contexts in established practice in the field. Although not invoked, the reference Zandi(US Pat. No:5,966,699) noted in the references cited in the First Office Action, teaches loan auctions. The process of loan processing and bid acceptance(col 13 lines 45-50)(Fig 2/275) is conducted in the transaction server as delineated in Fraser(Fig 1/110)(col 13 lines 4-56). This process is not preliminary and these bids result in consummated transactions that meet lenders' criteria.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any questions concerning this communication should be addressed to the examiner of record, Dr. Geoffrey Akers, P.E., who can be reached between 6:30 AM and 5:00 PM Monday through Friday at 703-306-5844. If attempts to contact the examiner are unsuccessful, the examiner's superior, Mr. Vincent Millin, SPE, may be telephoned at (703)-308-1065.

The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 2100 or this Art Unit is (703)-308-6296 or 6306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)-305-3900.

GRA

March 21, 2002


VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100